

HONORABLE TANA LIN

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

3M COMPANY,  
Plaintiff,

vs.

AIME LLC, MARK BACIAK, AND  
MICHAEL BINGHAM,

Defendants.

AIME LLC, MARK BACIAK, AND  
MICHAEL BINGHAM,

Third-Party Plaintiffs,

vs.

JOHN SHINAR (Individually and in  
His Capacity as Agent of 3M  
COMPANY),

Third-Party Defendant

CASE NO. 2:20-cv-01096-RAJ

**AIME'S AMENDED MOTION  
FOR AN ORDER OVERRULING  
3M'S OBJECTIONS AND  
COMPELLING 3M'S RESPONSE  
TO AIME'S FIRST REQUEST  
FOR PRODUCTION OF  
DOCUMENTS**

AIME'S AMENDED MOTION FOR AN ORDER  
OVERRULING 3M'S OBJECTIONS AND  
COMPELLING 3M'S RESPONSE TO AIME'S FIRST  
REQUEST FOR PRODUCTION OF DOCUMENTS  
Case No.: 2:20-cv-01096-RAJ -1

LAW OFFICE OF RICHARD D. ROSS  
2737 37TH AVE SW  
SEATTLE, WA 98126  
T: 206.660.0512

1 **I. RELIEF REQUESTED**

2 Defendants AIME LLC, Mark Baciak, and Michael Bingham (hereinafter, “AIME”),  
3 hereby file their Motion for an Order overruling 3M’s objections to AIME’s First Request for  
4 Production of Documents and compelling 3M to produce documents in response, as set forth in  
5 more detail below.

6 **II. INTRODUCTORY STATEMENT**

7 3M filed this lawsuit against AIME after it discovered AIME was competing with 3M for  
8 the business of one of its customers known as Providence Medical. 3M’s Initial Disclosures  
9 reveal that the sole basis for its lawsuit against AIME was a single instance of AIME attempting  
10 to broker genuine 3M 1860 respirators to Providence. A licensed attorney had sworn out an  
11 affidavit attesting to the existence and availability of such masks. Upon learning of AIME’s talks  
12 with Providence, 3M told AIME that such a quantity of masks did not exist. 3M claims AIME  
13 was trying to broker 500 million masks, when in fact the number was only 1 million masks.

14 When 3M sought the identity of the seller, AIME disclosed that information. Twice,  
15 AIME offered to “work with 3M” to “quickly resolve this matter” and sought to work directly  
16 with 3M to provide further information about the seller in question. 3M never followed up with  
17 AIME. Instead, 3M filed a 60-page lawsuit accusing AIME of engaging in, *inter alia*,  
18 counterfeiting, price gouging, and profiteering. 3M’s suit called AIME’s principals “bad actors,”  
19 “opportunists, and claimed they were “perpetrating a false and deceptive scheme on unwitting  
20 customers.” The suit implied AIME’s principals were criminals. AIME reacted by filing a  
21 Counterclaim for malicious prosecution, among other claims. AIME’s Counterclaim asserts that  
22 this and many other “cookie-cutter” suits filed by 3M around the nation against small business  
23 owners was simply part of 3M’s damage control campaign after its own reputation had been  
24 sullied when the president of the United States had invoked the Defense Production Act against  
25 3M and accused it of being unpatriotic.

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AIME's Counterclaim makes extensive allegations tending to show that 3M executives and insiders are selling mass quantities of PPE outside normal distribution channels at market prices well above list price to personally enrich themselves. It further alleges 3M is selling to non-U.S. based entities to maximize its profit, when it could be selling to the U.S. market during a pandemic. AIME claims 3M significantly understated its global production capacity to misled the American public into thinking it was doing its best, when in fact, its overseas production greatly exceeds 3M's asserted capacity.

### **III. DISPUTED OBJECTION TO AIME'S DISCOVERY REQUESTS**

AIME's First Request for Production of Documents seeks 82 categories of documents, all tailored to obtain documents relating to allegations made by AIME in its Counter-Complaint or by 3M in its Complaint. 3M's Responses were served on January 14, 2021 without producing a single document. For over a year, 3M still has produced no documents in response to AIME's First Request for Production, apparently based in part on the following reasoning:

Currently, a motion to dismiss Defendants' counterclaims is pending with this Court. 3M asserts that none of Defendants' counterclaims are viable. Based on recent communications, it appears that Defendants intend to further amend their counterclaims. 3M will not produce documents related to counterclaims that are likely to be dismissed or change because doing so would be costly and would be a waste of resources and therefore disproportionate to the needs of the litigation.

### **IV. AIME'S REQUESTS, 3M'S RESPONSES, AND AIME'S ARGUMENTS**

Those Requests for which AIME seeks to overrule 3M's objections and to compel the production of responsive documents are set forth below, along with 3M's Response and AIME's respective Motion to Compel.

**REQUEST NO. 1.** All documents Plaintiff relied upon in making the decision to file this lawsuit.

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-

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2737 37TH AVE SW  
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client privileged or work-product privileged material. Without waiving any objections, 3M relied on the customers' complaints and related documents provided in with its initial disclosures. 3M also relied on AIME's website, but 3M does not possess copies of the original website screen shots.

**MOTION TO COMPEL:** AIME has sued in part for malicious prosecution, claiming 3M's lawsuit lacked probable cause to accuse the Counterclaim Plaintiffs of being "bad actors" engaged in "unlawful actions", and to claim they were "perpetrating a false and deceptive scheme on unwitting customers." Counterclaim Plaintiffs seek to establish a lack of probable cause to be sued for "fraud", "counterfeiting", and "price gouging." 3M produced no documents whatsoever in response to this Request, instead alluding to certain documents "provided in with its initial disclosures."

"[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request." *Sundance Image Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure. "[A privilege log] would have enabled the plaintiff to assess the applicability of any asserted privileges. See, *Heath v. F/V ZOLOTOL*, 221 F.R.D. 545, 552 (W.D. Wash. 2004). "[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request." *Sundance Image Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

**REQUEST NO. 2.** All documents relating to any of the Defendants that were in Plaintiff's possession, custody or control as of the date Plaintiff filed this lawsuit.

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-client privileged or work-product privileged material. Without waiving any objections, 3M relied on the customers' complaints provided in with its initial disclosures. Additionally, 3M will perform a targeted, reasonable search of its electronic files for additional material once a protective order is entered.

**MOTION TO COMPEL:** AIME has sued in part for malicious prosecution, claiming 3M's

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2737 37TH AVE SW  
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lawsuit lacked probable cause. Having copies of the documents relating to any of the Defendants that were in Plaintiff's possession, custody or control as of the date Plaintiff filed this lawsuit is essential to demonstrating lack of probable cause and is calculated to lead to the discovery of admissible evidence.

By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.

"[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request." *Sundance Image Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

3M asserts that "3M will perform a targeted, reasonable search of its electronic files for additional material once a protective order is entered." Besides having not filed a Motion for Protective Order, this response belies 3M's suggestion that the requested documents are in any way privileged.

**REQUEST NO. 5.** Any and all documents supporting Plaintiff's allegation in paragraph 2 of the Complaint that "Defendants seek to benefit from 3M's good reputation to dupe unsuspecting individuals and healthcare entities to pay money for 3M's N95 respirators."

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-client privileged or work-product privileged material. Without waiving any objections, see documents included with the initial disclosures. Discovery is ongoing. Additional material will be provided when available.

**MOTION TO COMPEL:** By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.

"[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request." *Sundance Image Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

**REQUEST NO. 6.** Any and all documents supporting Plaintiff's allegation in

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Paragraph 2 of the Complaint that “Defendants’ motivation is to profiteer from our national crisis.”

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-client privileged or work-product privileged material. 3M also objects to the extent that the documents at issue are in the possession or control of third parties, including but not limited to governmental entities. Without waiving any objections, see documents included with the initial disclosures. Discovery is ongoing. Additional material will be provided when available.

**MOTION TO COMPEL:** By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.

“[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.” *Sundance Image Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

**REQUEST NO. 7.** Any and all documents supporting Plaintiff’s allegation in Paragraph 2 of the Complaint that “Defendants have repeatedly claimed false affiliations with 3M.”

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-client privileged or work-product privileged material. 3M also objects to the extent that the document at issue are in the possession or control of third parties, including but not limited to governmental entities. Without waiving any objections, see documents included with the initial disclosures. Discovery is ongoing. Additional material will be provided when available.

**MOTION TO COMPEL:** By making a blanket assertion of attorney client privileged

1 **communications and attorney work product without producing a privilege log, the**  
2 **Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.**

3 **“[I]t is not an appropriate response to a request for production of documents to state that**  
4 **the documents were previously produced. The responding party must provide specific**  
5 **identification of the documents corresponding to the specific request.” Sundance Image**  
6 **Tech., Inc. v. Cone Editions Press, Ltd., No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).**

7 **REQUEST NO. 8.** Any and all documents that constitute “reports” as that term is  
8 used in Paragraph 3 of the Complaint.

9 **RESPONSE: 3M** objects to this request to the extent that it seeks either  
10 attorney-client privileged or work-product privileged material. 3M also objects to  
11 the extent that the documents at issue are in the possession or control of third  
12 parties, including but not limited to governmental entities. Without waiving any  
13 objections, see documents included with the initial disclosures. Discovery is  
14 ongoing. Additional material will be provided when available.

15 **MOTION TO COMPEL: By making a blanket assertion of attorney client privileged**  
16 **communications and attorney work product without producing a privilege log, the**  
17 **Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.**

18 **“[I]t is not an appropriate response to a request for production of documents to state that**  
19 **the documents were previously produced. The responding party must provide specific**  
20 **identification of the documents corresponding to the specific request.” Sundance Image**  
21 **Tech., Inc. v. Cone Editions Press, Ltd., No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).**

22 **REQUEST NO. 9.** Any and all documents reflecting customers that became  
23 confused, expressed concern or contacted 3M as alleged in paragraph 4 of the  
24 Complaint.

25 **RESPONSE: 3M** objects to this request to the extent that it seeks either  
26 attorney-client privileged or work-product privileged material. 3M also objects to  
the extent that the documents at issue are in the possession or control of third  
parties, including but not limited to governmental entities. Without waiving any  
objections, see documents included with the initial disclosures. Discovery is



ongoing. Additional material will be provided when available.

**MOTION TO COMPEL:** By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.

**“[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.”** *Sundance Image Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

**REQUEST NO. 10.** Any all documents concerning the investigation by 3M as alleged in paragraph 4 of the Complaint.

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-client privileged or work-product privileged material. Without waiving any objections, see documents included with the initial disclosures. Discovery is ongoing. Additional material will be provided when available.

**MOTION TO COMPEL:** By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.

**“[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.”** *Sundance Image Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

**REQUEST NO. 11.** Any and all documents concerning the marketing with a direct access and close relationship with 3M as alleged in paragraph 5 of the Complaint.

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-client privileged or work-product privileged material. 3M also objects to this request as the phrase “concerning the marketing with a direct access and close relationship with 3M” is unclear in the context of the request. Without waiving any objections, see documents included with the initial disclosures.

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Discovery is ongoing. Additional material will be provided when available.

**MOTION TO COMPEL:** By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.

**“[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.” Sundance Image Tech., Inc. v. Cone Editions Press, Ltd., No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).**

**REQUEST NO. 13.** Any and all documents reflecting that “Defendants have sought millions of dollars of payments from their potential victims” as alleged in paragraph 5 of the Complaint.

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-client privileged or work-product privileged material. Without waiving any objections, see documents included with the initial disclosures. Discovery is ongoing. Additional material will be provided when available.

**MOTION TO COMPEL:** By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.

**“[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.” Sundance Image Tech., Inc. v. Cone Editions Press, Ltd., No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).**

**REQUEST NO. 14.** Any and all documents reflecting the “misleading paperwork that misrepresented the purchase process” as alleged in paragraph 5 of the Complaint.

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-client privileged or work-product privileged material. Without waiving any objections, see documents included with the initial disclosures. Discovery is ongoing. Additional material will be provided when available.

**MOTION TO COMPEL:** By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.

“[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.” *Sundance Image Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

**REQUEST NO. 15.** Any and all documents that evidence that any Defendants “falsely claimed 3M was involved in the transaction” as alleged in paragraph 5 of the Complaint.

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-client privileged or work-product privileged material. Without waiving any objections, see documents included with the initial disclosures. Discovery is ongoing. Additional material will be provided when available.

**MOTION TO COMPEL:** By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.

“[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.” *Sundance Image Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

**REQUEST NO. 16.** Any and all documents concerning “the transaction” as defined in Paragraph 5 of the Complaint.

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-client privileged or work-product privileged material. Without waiving any objections, see documents included with the initial disclosures. Discovery is ongoing. Additional material will be provided when available.

**MOTION TO COMPEL:** By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.

“[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.” *Sundance Image Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

**REQUEST NO. 17.** Any all documents concerning or evidencing “when 3M approached Defendants **regarding** its concerns” as alleged in paragraph 5 of the Complaint.

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-client privileged or **work-product** privileged material. Without waiving any objections, see documents included with the initial disclosures. Discovery is ongoing. Additional material will be provided when available.

**MOTION TO COMPEL:** By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.

“[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.” *Sundance Image Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

**REQUEST NO. 18.** Any and all documents concerning or evidencing “Defendants brazenly reiterated their false claims to 3M employees” as alleged in paragraph 5 of the Complaint.

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-client privileged or **work-product** privileged material. Without waiving any objections, see documents included with the initial disclosures. Discovery is ongoing. Additional material will be provided when available.

**MOTION TO COMPEL:** By making a blanket assertion of attorney client privileged

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2737 37TH AVE SW  
SEATTLE, WA 98126  
T: 206.660.0512

communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.

“[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.” *Sundance Image Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

**REQUEST NO. 19.** Any and all documents concerning or evidencing Defendants “continued to make false representations” as alleged in paragraph 5 of the Complaint.

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-client privileged or work-product privileged material. Without waiving any objections, see documents included with the initial disclosures. Discovery is ongoing. Additional material will be provided when available.

**MOTION TO COMPEL:** By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.

“[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.” *Sundance Image Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

**REQUEST NO. 20.** Any and all documents concerning or evidencing that “Defendants have illegally used 3M’s trademarks in violation of the Lanham Act in order to enrich themselves” as alleged in paragraph 7 of the Complaint.

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-client privileged or work-product privileged material. Without waiving any objections, see documents included with the initial disclosures. Discovery is ongoing. Additional material will be provided when available.

**MOTION TO COMPEL:** By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the

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2737 37TH AVE SW  
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Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.

“[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.” *Sundance Image Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

**REQUEST NO. 22.** Any and all documents which evidence price gouging as alleged in Paragraph 8 of the Complaint.

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-client privileged or **work-product** privileged material. Without waiving any objections, see documents included with the initial disclosures. Discovery is ongoing. Additional material will be provided when available.

**MOTION TO COMPEL:** By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.

“[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.” *Sundance Image Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

**REQUEST NO. 23.** Any and all documents evidencing 3M’s global production rate of 3M- brand respirators as alleged in paragraph 10 of the Complaint.

**RESPONSE:** 3M objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case. 3M’s N95 production is well-publicized and documents reflecting that production have been provided in this case. In fact, AIME notes it on its website:

<https://www.aimeusa.com/legal/legal>. Notwithstanding the objections, 3M is willing to confer on a reasonable scope of documents related to the production rate of its N95 respirators. 3M will not produce its confidential documents in the absence of a protective order with a Highly Confidential/Attorneys’ eyes only

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2737 37TH AVE SW  
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provision.

**MOTION TO COMPEL:** In its Counterclaim, AIME alleges that one of its mutual customers, Boston Pharm (“BP”) has also witnessed multiple respirator offers from 3M insiders that, when totaled, far exceed the stated global capacity 3M advertises on its website, in its press releases, and in its lawsuit. AIME alleges 3M is not being forthright with the public about its production capacity. Counterclaim, para. 33. AIME further alleges that 3M has motives to understate its production capacity. Counterclaim, para. 34. For one, it gets the President off their back, thereby avoiding further negative press. It also keeps prices for its masks higher by creating the false impression of scarcity for its product. It also allows 3M to allocate fewer masks to the American market, thereby maximizing profits dealing in more lucrative overseas markets.

As such, this request is tailored to seek documents within the scope of AIME’s pleadings, and is likely to lead to the discovery of admissible evidence. 3M tacitly admits this fact when it states: “Notwithstanding the objections, 3M is willing to confer on a reasonable scope of documents related to the production rate of its N95 respirators...”. AIME would suggest that 3M’s obligation is to produce the requested documents rather than offer to enter into settlement negotiations concerning the extent of its production.

**REQUEST NO. 24.** Any and all documents evidencing 3M’s U.S. rate of production of respirators by state and/or nationally from January 2020 to present.

**RESPONSE:** 3M objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case. 3M also objects to this request as it appears to seek confidential, proprietary information, which will not be produced without a protective order. Notwithstanding the objections, 3M is willing to confer on a reasonable scope of documents. 3M will not produce its confidential documents in the absence of a protective order with a Highly Confidential/Attorneys’ eyes only provision.

**MOTION TO COMPEL:** See Motion to Compel pertaining to REQUEST NO. 23 above.

**REQUEST NO. 25.** Any and all documents forecasting 3M’s rate of production of respirators globally and/or nationally from present to December 2021.

1 **RESPONSE:** 3M objects to this request as overly broad, unduly  
2 burdensome, and disproportionate to the needs of the case. 3M also objects to  
3 this request as it appears to seek confidential, proprietary information, which will  
4 not be produced without a protective order. 3M will not produce its confidential  
5 documents in the absence of a protective order with a Highly  
Confidential/Attorneys' eyes only provision.

6 **MOTION TO COMPEL:** See Motion to Compel pertaining to REQUEST NO. 23 above.  
7

8 **REQUEST NO. 26.** Any and all documents reflecting 3M's investment of  
9 capital/resources or projections of investment by 3M from 2020 to December  
10 2021.

11 **RESPONSE:** 3M objects to this request as overly broad, unduly  
12 burdensome, and disproportionate to the needs of the case. See also 3M's  
annual reports:

13 <https://investors.3m.com/financials/annual-reports-and-proxy-statements/default.aspx>.  
14

15 **MOTION TO COMPEL:** See Motion to Compel pertaining to REQUEST NO. 23 above.  
16

17 **REQUEST NO. 29.** Any and all documents evidencing "the prices that it  
18 charges for 3M respirators" from January 2019 to present as alleged in paragraph  
11 of the Complaint.

19 **RESPONSE:** 3M objects to this request as overly broad, unduly  
20 burdensome, and disproportionate to the needs of the case. See also

21 <https://multimedia.3m.com/mws/media/1862179O/get-the-facts-n95-respirator-pricing.pdf>.  
22

23 **MOTION TO COMPEL:** 3M's lawsuit calls the Counterclaim Plaintiffs, *inter alia*, "price  
24 gougers" and "profiteers." AIME's Counterclaim essentially alleges 3M itself was selling  
25 respirators at prices far exceeding those quoted in its lawsuit. AIME claims that "3M is  
well-aware that its products are available on the secondary market at prices much higher  
than those list prices that 3M only began publishing on its website after being enjoined by  
the April 12, 2020 DPA Presidential Order." Counterclaim, para. 90. AIME claims that

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“since the demand for respirators of any origin has grown exponentially in response to the pandemic, 3M has been committed to seeking to maintain its monopoly and still meet this demand for its own selfish profit motives. 3M is not trying to keep its respirators priced fairly. 3M only began publishing its prices after being forced to do so. 3M is well-aware that its respirators are routinely traded on the secondary market much like commodities, and that these prices far exceed those quoted in its lawsuit. If 3M truly wanted to be fair to the citizens of the U.S., it would have funneled a much larger share of its world respirator output to the U.S., rather than waiting for the President to invoke the DPA and forcing it to do so. Counterclaim, para. 91.

AIME claims that “On information and belief, 3M is able to get away with understating its production capacity because a significant portion of 3M’s respirator production is being sold “out the back door” of its overseas facilities, outside its normal channels, with 3M executives and insiders reaping huge personal rewards.” Counterclaim, para. 35.

As such, this request seeking “the prices that 3M charges for 3M respirators” is tailored to seek documents within the scope of AIME’s pleadings and is likely to lead to the discovery of admissible evidence.

**REQUEST NO. 30.** Any and all documents evidencing “bad actors” as alleged in paragraph 12 of the Complaint.

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-client privileged or work-product privileged material. Without waiving any objections, see documents included with the initial disclosures. Discovery is ongoing. Additional material will be provided when available.

**MOTION TO COMPEL:** By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.

“[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.” *Sundance Image Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

**REQUEST NO. 32.** Any and all documents of the information 3M has provided relating to the instant case to federal and state authorities as alleged in paragraph 13 of the Complaint.

**RESPONSE:** 3M **objects** to this request to the extent that it seeks either attorney-client privileged or work-product privileged material. 3M **objects** to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case. 3M is willing to confer on an appropriate scope of this request. 3M will not produce its confidential documents in the absence of a protective order with a Highly Confidential/Attorneys' eyes only provision.

**MOTION TO COMPEL:** 3M's lawsuit alleges it is "working with law enforcement authorities around the world, including the Department of Justice, state Attorneys General, the Federal Bureau of Investigation, the U.S. Attorney General, and local authorities to combat price-gouging and other unlawful activities." Complaint, para. 13. AIME did in fact receive a subpoena from the Department of Justice at or about the same time 3M sued AIME.

This request seeks documents that were provided to law enforcement, which are likely to include statements by 3M describing 3M's characterization of AIME's conduct. Thus, the Request seeks potential admissions of a party opponent, which constitutes fertile discovery grounds.

**MOTION TO COMPEL:** By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.

"[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request." *Sundance Image Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

**REQUEST NO. 34.** Any and all documents reflecting that Each Defendant has also "committed and intentionally directed tortious acts toward residents in the District" as alleged in paragraph 27 of the Complaint.

**RESPONSE:** 3M **objects** to this request to the extent that it seeks either attorney-client privileged or work-**product** privileged material. Without waiving any objections, see documents included with the initial disclosures. Discovery is ongoing. Additional material will be provided when available.

**MOTION TO COMPEL:** By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.

“[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.” *Sundance Image Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

**REQUEST NO. 35.** Any and all documents reflecting instances where 3M is providing N95 respirators to heroic **individuals** on the front lines of the battle of Covid 19 as alleged in paragraph 41 of the Complaint.

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-client privileged or work-product privileged material. 3M objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case. 3M is willing to confer on an appropriate scope of this request. 3M will not produce its confidential documents in the absence of a protective order with a Highly Confidential/Attorneys’ eyes only provision.

**MOTION TO COMPEL:** By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure. By stating that “3M is willing to confer on an appropriate scope of this request,” 3M tacitly admits at least some documents are due to be produced. AIME would suggest that 3M’s obligation is to produce the requested documents rather than offer to enter into settlement negotiations concerning the extent of its production.

By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.

“[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.” *Sundance Image Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

**REQUEST NO. 36.** Any and all documentation reflecting instances where 3M

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1 sold an N-95 respirator at price different than the list price as alleged in  
2 paragraph 46 a. of the Complaint.

3 **RESPONSE:** 3M objects to this request to the extent that it seeks either  
4 attorney-client privileged or work-product privileged material. 3M objects to  
5 this request as overly broad, unduly burdensome, and disproportionate to the  
6 needs of the case. Moreover, the list prices noted are suggested **prices** to end  
7 customers. 3M's prices to its authorized distributors are lower than these list prices  
8 and depend on the distributor. Further, an end customer's actual prices may be  
9 lower than these list prices, as negotiated between the end customer and its chosen  
10 distributor.

11 **MOTION TO COMPEL:** By making a blanket assertion of attorney client privileged  
12 communications and attorney work product without producing a privilege log, the  
13 Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.

14 In addition, 3M doubles down by suggesting that prices to its distributors and end  
15 customer are actually lower than its list prices. On its Motion to Compel directed to  
16 REQUEST NO. 29, AIME explains that 3M was actually selling its respirators at prices  
17 much higher than its list prices. As such, this request seeking "instances where 3M sold an  
18 N-95 respirator at a price different than the list price as alleged in paragraph 46 a. of  
19 the Complaint" is tailored to seek documents within the scope of AIME's pleadings, and is  
20 likely to lead to the discovery of admissible evidence.

21 **REQUEST NO. 37.** Any and all documentation evidencing the allegations in  
22 Paragraph 56 of the Complaint.

23 **RESPONSE:** 3M objects to this request to the extent that it seeks either  
24 attorney-client privileged or work-product privileged material. 3M objects to  
25 this request as overly broad, unduly burdensome, and disproportionate to the  
26 needs of the case. 3M is willing to confer on an appropriate scope of **this** request.  
3M will not produce its confidential documents in the absence of a protective order  
with a Highly Confidential/Attorneys' eyes only provision.

**MOTION TO COMPEL: Paragraph 56 of 3M's Complaint alleges that "Facing increasing**

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1 demand, by February 5, 2020, 3M confirmed and reiterated its policy to sell its N95  
 2 respirators to its authorized distributors only.”Counterclaim Plaintiffs have not seen any  
 3 such confirmation or reiteration of its referenced policy. Based on the pricing issues being  
 squarely raised in the pleadings, this Request is tailored to seek documents within the scope  
 of AIME’s pleadings, and is likely to lead to the discovery of admissible evidence.

4 By making a blanket assertion of attorney client privileged communications and attorney  
 5 work product without producing a privilege log, the Counterclaim Defendant has violated  
 Rule 26(b)(5), Federal Rules of Civil Procedure.

6 “[I]t is not an appropriate response to a request for production of documents to state that  
 7 the documents were previously produced. The responding party must provide specific  
 8 identification of the documents corresponding to the specific request.” *Sundance Image  
 Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

9  
 10 **REQUEST NO. 38.** Any and all documentation evidencing the allegation in  
 11 Paragraph 58 “Defendants began to inform customers that they had access to  
 12 more than 500 million units.”

13 **RESPONSE:** 3M objects to this request to the extent that it seeks either  
 14 attorney-client privileged or work-product privileged material. Without waiving  
 15 any objections, see documents included with the initial disclosures. Discovery is  
 16 ongoing. Additional material will be provided when available.

17 **MOTION TO COMPEL:** By making a blanket assertion of attorney client privileged  
 18 communications and attorney work product without producing a privilege log, the  
 Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.

19 “[I]t is not an appropriate response to a request for production of documents to state that  
 20 the documents were previously produced. The responding party must provide specific  
 21 identification of the documents corresponding to the specific request.” *Sundance Image  
 Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

22  
 23 **REQUEST NO. 39.** Any and all documents evidencing the allegation in  
 24 paragraph 59 that “Defendants sent emails to **potential** customers” including but  
 25 not limited to such emails as alleged.

26 **RESPONSE:** 3M **objects** to this request to the extent that it seeks either

attorney-client privileged or work-product privileged material. Without waiving any objections, see documents included with the initial disclosures. Discovery is ongoing. Additional material will be provided when available.

**MOTION TO COMPEL:** By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.

**“[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.”** *Sundance Image Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

**REQUEST NO. 40.** Any and all documentation evidencing the allegations in Paragraph 60 of the Complaint.

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-client privileged or work-product privileged material. Without waiving any objections, see documents included with the initial disclosures. Discovery is ongoing. Additional material will be provided when available.

**MOTION TO COMPEL:** Paragraph 60 of the Complaint alleges that “[i]n late May, 3M learned that Defendants offered similar terms to other potential customers, but had increased their price per unit to \$3.00. Defendants have also offered the product to other customers for \$6.95 per unit, vastly above the list price.” These are very specific allegations against AIME and Counterclaim Plaintiffs are entitled to the documents upon which the allegations are based.

**“[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.”** *Sundance Image Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

**By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.**

**REQUEST NO. 41.** Any and documentation of the list price for N95

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Model 1860 respirators for the last two years to present.

**RESPONSE:** 3M objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case. See also

<https://multimedia.3m.com/mws/media/1862179O/get-the-facts-n95-respirator-pricing.pdf>.

**MOTION TO COMPEL:** 3M claims it publishes list prices on its website, but AIME has questioned when that practice began in relation to the time of its lawsuit against AIME. AIME also questions when 3M began publishing list prices in relation to the following allegation made by AIME: “3M was called-out publicly by the U.S. President for placing profits over patriotism during the global pandemic. On April 2, 2020, the President invoked the Defense Production Act against 3M, forcing it to re-route its sales of a portion of its respirators to American healthcare workers, and away from 3M’s more lucrative markets.”

Because the timing of 3M’s practice of publishing its list prices is an issue being squarely raised in the pleadings, this Request is tailored to seek documents within the scope of AIME’s pleadings, and is likely to lead to the discovery of admissible evidence.

**REQUEST NO. 42.** Any all documentation of the allegations in Paragraph 62 of the Complaint including but not limited to a copy of the emails alleged.

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-client privileged or work-product privileged material. Without waiving any objections, see documents included with the initial disclosures. Discovery is ongoing. Additional material will be provided when available.

**MOTION TO COMPEL:** Paragraph 62 of 3M’s Complaint alleges “Defendants attached 3M product description materials to some of their emails to their potential customers.” These are very specific allegations against AIME and Counterclaim Plaintiffs are entitled to the documents upon which the allegations are based.

“[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.” *Sundance Image Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

By making a blanket assertion of attorney client privileged communications and attorney



1 **work product without producing a privilege log, the Counterclaim Defendant has violated**  
2 **Rule 26(b)(5), Federal Rules of Civil Procedure.**

3 **REQUEST NO. 43.** Any and all documents of the allegations in Paragraph 63 of  
4 the Complaint.

5 **RESPONSE:** 3M objects to this request to the extent that it seeks either  
6 attorney-client privileged or work-product privileged material. Without waiving  
7 any objections, see documents included with the initial disclosures. Discovery is  
8 ongoing. Additional material will be provided when available.

9 **MOTION TO COMPEL:** Paragraph 63 of 3M's Complaint accuses AIME, "on  
10 information and belief" of making "outright lies" the "their potential victims." These are  
11 very specific allegations against AIME and Counterclaim Plaintiffs are entitled to the  
12 documents upon which the allegations are based.

13 "[I]t is not an appropriate response to a request for production of documents to state that  
14 the documents were previously produced. The responding party must provide specific  
15 identification of the documents corresponding to the specific request." *Sundance Image*  
16 *Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

17 **By making a blanket assertion of attorney client privileged communications and attorney**  
18 **work product without producing a privilege log, the Counterclaim Defendant has violated**  
19 **Rule 26(b)(5), Federal Rules of Civil Procedure.**

20 **REQUEST NO. 44.** Any and all documents of the allegations in Paragraph 64 of  
21 the Complaint.

22 **RESPONSE:** 3M objects to this request to the extent that it seeks either  
23 attorney-client privileged or work-product privileged material. Without waiving  
24 any objections, see documents included with the initial disclosures. Discovery is  
25 ongoing. Additional material will be provided when available.

26 **MOTION TO COMPEL:** Paragraph 64 of the Complaint alleges "Defendants demanded a  
100%, non-refundable prepayment to AIME...". These are very specific allegations  
against AIME and Counterclaim Plaintiffs are entitled to the documents upon which the  
allegations are based.

1 “[I]t is not an appropriate response to a request for production of documents to state that  
2 the documents were previously produced. The responding party must provide specific  
3 identification of the documents corresponding to the specific request.” Sundance Image  
4 Tech., Inc. v. Cone Editions Press, Ltd., No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

5 By making a blanket assertion of attorney client privileged communications and attorney  
6 work product without producing a privilege log, the Counterclaim Defendant has violated  
7 Rule 26(b)(5), Federal Rules of Civil Procedure.

8 **REQUEST NO. 45.** Any and all documents of the allegations in Paragraph 65 of  
9 the Complaint

10 **RESPONSE:** 3M objects to this request as overly broad, unduly  
11 burdensome, and disproportionate to the needs of the case. Notwithstanding the  
12 objections, 3M is willing to confer on a reasonable scope of documents. 3M will  
13 not produce its confidential documents in the absence of a protective order with  
14 a Highly Confidential/Attorneys’ eyes only provision.

15 **MOTION TO COMPEL:** Paragraph 65 of the Complaint alleges “Defendants’ description  
16 of the 3M sales process is entirely inaccurate.” These are very specific allegations against  
17 AIME and Counterclaim Plaintiffs are entitled to the documents upon which the  
18 allegations are based.

19 By stating that “3M is willing to confer on a reasonable scope of documents,” 3M tacitly  
20 admits at least some documents are due to be produced. AIME would suggest that 3M’s  
21 obligation is to produce the requested documents rather than offer to enter into settlement  
22 negotiations concerning the extent of its production.

23 **REQUEST NO. 47.** Any and all documents evidencing the allegations of  
24 Paragraph 68 of the Complaint “When 3M contacted Defendants about their  
25 offers and expressed concerns.”

26 **RESPONSE:** 3M objects to this request to the extent that it seeks either  
attorney-client privileged or work-product privileged material. Without waiving  
any objections, see documents included with the initial disclosures. Discovery is  
ongoing. Additional material will be provided when available.

1 **MOTION TO COMPEL:** “[I]t is not an appropriate response to a request for production  
2 of documents to state that the documents were previously produced. The responding party  
3 must provide specific identification of the documents corresponding to the specific  
request.” *Sundance Image Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5  
(S.D. Cal. Aug. 19, 2005).

4 **By making a blanket assertion of attorney client privileged communications and attorney**  
5 **work product without producing a privilege log, the Counterclaim Defendant has violated**  
6 **Rule 26(b)(5), Federal Rules of Civil Procedure.**

7 **REQUEST NO. 48.** Any and all documents evidencing the allegations in  
8 paragraph 70 of the Complaint.

9 **RESPONSE:** 3M objects to this request to the extent that it seeks either  
10 attorney-client privileged or work-product privileged material. Without waiving  
11 any objections, see documents included with the initial disclosures. Discovery is  
ongoing. Additional material will be provided when available.

12  
13 **MOTION TO COMPEL:** Paragraph 70 of the Complaint alleges AIME intended to  
14 “confuse and deceive their potential customers into believing that Defendants are  
15 authorized distributors of Plaintiffs products and had an existing relationship with 3M.”  
These are very specific allegations against AIME and Counterclaim Plaintiffs are entitled  
to the documents upon which the allegations are based.

16 “[I]t is not an appropriate response to a request for production of documents to state that  
17 the documents were previously produced. The responding party must provide specific  
18 identification of the documents corresponding to the specific request.” *Sundance Image*  
*Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

19 **By making a blanket assertion of attorney client privileged communications and attorney**  
20 **work product without producing a privilege log, the Counterclaim Defendant has violated**  
21 **Rule 26(b)(5), Federal Rules of Civil Procedure.**

22  
23 **REQUEST NO. 50.** Any and all documents evidencing the allegations in  
24 paragraph 72 of the Complaint that “Defendants have engaged in and continue to  
25 engage in price gouging of 3M respirators by marketing and selling 3M N95  
respirators for exorbitant prices, while falsely claiming an affiliation and business

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relationship with 3M” including but not limited to any and all documents evidencing the definition of price gouging as alleged.

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-client privileged or work-product privileged material. Without waiving any objections, see documents included with the initial disclosures. Discovery is ongoing. Additional material will be provided when available.

**MOTION TO COMPEL:** “[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.” *Sundance Image Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.

**REQUEST NO. 51.** Any and all documents, including but not limited to any financial documents, causing irreparable harm as alleged in paragraph 73 and 74 of the Complaint.

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-client privileged or work-product privileged material. Without waiving any objections, see documents included with the initial disclosures. Discovery is ongoing. Additional material will be provided when available.

**MOTION TO COMPEL:** “[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.” *Sundance Image Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.

1 **REQUEST NO. 52.** Any and all documents evidencing attempts by any  
2 Defendant to purchase, sell or re-sell anything other than genuine 3M products as  
3 alleged in Paragraph 76 of the Complaint.

4 **RESPONSE:** 3M objects to this request to the extent that it seeks either  
5 attorney-client privileged or work-product privileged material. Without waiving  
6 any objections, see documents included with the initial disclosures. Discovery is  
7 ongoing. Additional material will be provided when available.

8 **MOTION TO COMPEL:** “[I]t is not an appropriate response to a request for production  
9 of documents to state that the documents were previously produced. The responding party  
10 must provide specific identification of the documents corresponding to the specific  
11 request.” Sundance Image Tech., Inc. v. Cone Editions Press, Ltd., No. WL 8173278, at \*5  
12 (S.D. Cal. Aug. 19, 2005).

13 **By making a blanket assertion of attorney client privileged communications and attorney  
14 work product without producing a privilege log, the Counterclaim Defendant has violated  
15 Rule 26(b)(5), Federal Rules of Civil Procedure.**

16 **REQUEST NO. 53.** Any and all documents that contain “Defendants’ use of  
17 Plaintiff’s famous 3M Trademarks and/or name to advertise, market, offer for  
18 sale, and/or sell purported 3M brand 95 respirators to consumers at  
19 exorbitant prices” as alleged in paragraph 80 of the Complaint.

20 **RESPONSE:** 3M objects to this request to the extent that it seeks either  
21 attorney-client privileged or work-product privileged material. Without waiving  
22 any objections, see documents included with the initial disclosures. Discovery is  
23 ongoing. Additional material will be provided when available. See also

24 <https://www.aimeusa.com/legal/legal>.

25 **MOTION TO COMPEL:** “[I]t is not an appropriate response to a request for production  
26 of documents to state that the documents were previously produced. The responding party  
must provide specific identification of the documents corresponding to the specific  
request.” Sundance Image Tech., Inc. v. Cone Editions Press, Ltd., No. WL 8173278, at \*5  
(S.D. Cal. Aug. 19, 2005).

1 **By making a blanket assertion of attorney client privileged communications and attorney**  
2 **work product without producing a privilege log, the Counterclaim Defendant has violated**  
3 **Rule 26(b)(5), Federal Rules of Civil Procedure.**

4 **REQUEST NO. 54.** Any and all documents evidencing dilution of Plaintiff's  
5 marks and/or reputation or likely dilution of Plaintiff's marks and or  
6 reputation as alleged in Paragraphs 87, 88 and 89 of the Complaint,  
7 including but not limited to any financial documentation.

8 **RESPONSE:** 3M objects to this request to the extent that it seeks either  
9 attorney-client privileged or work-product privileged material. Without waiving  
10 any objections, see documents included with the initial disclosures. Discovery is  
11 ongoing. Additional material will be provided when available. See also

12 <https://www.aimeusa.com/legal/legal>.

13 **MOTION TO COMPEL:** "[I]t is not an appropriate response to a request for production  
14 of documents to state that the documents were previously produced. The responding party  
15 must provide specific identification of the documents corresponding to the specific  
16 request." Sundance Image Tech., Inc. v. Cone Editions Press, Ltd., No. WL 8173278, at \*5  
17 (S.D. Cal. Aug. 19, 2005).

18 **By making a blanket assertion of attorney client privileged communications and attorney**  
19 **work product without producing a privilege log, the Counterclaim Defendant has violated**  
20 **Rule 26(b)(5), Federal Rules of Civil Procedure.**

21 **REQUEST NO. 55** Any and all documents evidencing the irreparable harm  
22 alleged in Paragraphs 90 and 100 of the Complaint.

23 **RESPONSE:** 3M objects to this request to the extent that it seeks either  
24 attorney-client privileged or work-product privileged material. Without waiving  
25 any objections, see documents included with the initial disclosures. Discovery is  
26 ongoing. Additional material will be provided when available.

27 **MOTION TO COMPEL:** "[I]t is not an appropriate response to a request for production  
28 of documents to state that the documents were previously produced. The responding party

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1 must provide specific identification of the documents corresponding to the specific  
2 request.” *Sundance Image Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5  
(S.D. Cal. Aug. 19, 2005).

3 By making a blanket assertion of attorney client privileged communications and attorney  
4 work product without producing a privilege log, the Counterclaim Defendant has violated  
5 Rule 26(b)(5), Federal Rules of Civil Procedure.

6 **REQUEST NO. 57.** Any and all documents evidencing that the Defendants  
7 knowingly misrepresented the amount of product they could procure and the  
8 method for procuring the product to their potential customers as alleged in  
9 Paragraph 107 of the Complaint.

10 **RESPONSE:** 3M objects to this request to the extent that it seeks either  
11 attorney-client privileged or work-product privileged material. Without waiving  
12 any objections, see documents included with the initial disclosures. Discovery is  
13 ongoing. This information is uniquely in the possession of Defendants. Additional  
14 material will be provided when available.

15 **MOTION TO COMPEL:** “[I]t is not an appropriate response to a request for production  
16 of documents to state that the documents were previously produced. The responding party  
17 must provide specific identification of the documents corresponding to the specific  
18 request.” *Sundance Image Tech., Inc. v. Cone Editions Press, Ltd.*, No. WL 8173278, at \*5  
(S.D. Cal. Aug. 19, 2005).

19 By making a blanket assertion of attorney client privileged communications and attorney  
20 work product without producing a privilege log, the Counterclaim Defendant has violated  
21 Rule 26(b)(5), Federal Rules of Civil Procedure.

22 **REQUEST NO. 58.** Any and all documents evidencing that the Defendants  
23 actions were intended to deceive Defendants' potential customers as alleged in  
24 Paragraph 108 of the Complaint.

25 **RESPONSE:** 3M objects to this request to the extent that it seeks either  
26 attorney-client privileged or work-product privileged material. Without waiving  
any objections, see documents included with the initial disclosures. Discovery is



1 ongoing. This information is uniquely in the possession of Defendants. Additional  
2 material will be provided when available.

3 **MOTION TO COMPEL:** “[I]t is not an appropriate response to a request for production  
4 of documents to state that the documents were previously produced. The responding party  
5 must provide specific identification of the documents corresponding to the specific  
6 request.” Sundance Image Tech., Inc. v. Cone Editions Press, Ltd., No. WL 8173278, at \*5  
7 (S.D. Cal. Aug. 19, 2005).

8 **By making a blanket assertion of attorney client privileged communications and attorney  
9 work product without producing a privilege log, the Counterclaim Defendant has violated  
10 Rule 26(b)(5), Federal Rules of Civil Procedure.**

11 **REQUEST NO. 59.** Any and all documents that evidence that the Defendants  
12 actions are immoral and unlawful under Washington law as alleged in paragraph  
13 109.

14 **RESPONSE:** 3M objects to this request to the extent that it seeks either  
15 attorney-client privileged or work-product privileged material. Without waiving  
16 any objections, see documents included with the initial disclosures. Discovery is  
17 ongoing. This information is uniquely in the possession of Defendants. Additional  
18 material will be provided when available.

19 **MOTION TO COMPEL:** Paragraph 109 of the Complaint alleges: “Defendants increased  
20 the price of 3M N95 respirators by attempting to resell the product at a markup of between  
21 1.6 and 3.9 times 3M’s list price... [which] is immoral and unlawful under Washington  
22 law.” In truth, the State of Washington has no price gouging law. These are very specific  
23 allegations against AIME and Counterclaim Plaintiffs are entitled to the documents upon  
24 which the allegations are based.

25 “[I]t is not an appropriate response to a request for production of documents to state that  
26 the documents were previously produced. The responding party must provide specific  
identification of the documents corresponding to the specific request.” Sundance Image  
Tech., Inc. v. Cone Editions Press, Ltd., No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

**By making a blanket assertion of attorney client privileged communications and attorney  
work product without producing a privilege log, the Counterclaim Defendant has violated  
Rule 26(b)(5), Federal Rules of Civil Procedure.**

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2737 37TH AVE SW  
SEATTLE, WA 98126  
T: 206.660.0512

**REQUEST NO. 60.** Any and all documents, including but not limited to financial documents, that Defendants actions have harmed the public interest or will continue to harm the public interest as alleged in paragraphs 110 and 111 of the Complaint.

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-client privileged or work-product privileged material. Without waiving any objections, see documents included with the initial disclosures. Discovery is ongoing. This information is uniquely in the possession of Defendants. Additional material will be provided when available.

**MOTION TO COMPEL:** “[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.” Sundance Image Tech., Inc. v. Cone Editions Press, Ltd., No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

**By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.**

**REQUEST NO. 61.** Any and all documents evidencing the irreparable harm alleged in paragraph 112 of the Complaint.

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-client privileged or work-product privileged material. Without waiving any objections, see documents included with the initial disclosures. Discovery is ongoing. This information is uniquely in the possession of Defendants. Additional material will be provided when available.

**MOTION TO COMPEL:** “[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.” Sundance Image Tech., Inc. v. Cone Editions Press, Ltd., No. WL 8173278, at \*5

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2737 37TH AVE SW  
SEATTLE, WA 98126  
T: 206.660.0512

1 (S.D. Cal. Aug. 19, 2005).

2 **By making a blanket assertion of attorney client privileged communications and attorney**  
3 **work product without producing a privilege log, the Counterclaim Defendant has violated**  
4 **Rule 26(b)(5), Federal Rules of Civil Procedure.**

5 **REQUEST NO. 62.** Any and all documents evidencing the damages alleged in  
6 paragraph 113 of the Complaint.

7 **RESPONSE:** 3M objects to this request to the extent that it seeks either  
8 attorney-client privileged or work-product privileged material. Without waiving  
9 any objections, see documents included with the initial disclosures. Discovery is  
10 ongoing. This information is uniquely in the possession of Defendants. Additional  
11 material will be provided when available.

12 **MOTION TO COMPEL:** “[I]t is not an appropriate response to a request for production  
13 of documents to state that the documents were previously produced. The responding party  
14 must provide specific identification of the documents corresponding to the specific  
15 request.” Sundance Image Tech., Inc. v. Cone Editions Press, Ltd., No. WL 8173278, at \*5  
(S.D. Cal. Aug. 19, 2005).

16 **By making a blanket assertion of attorney client privileged communications and attorney**  
17 **work product without producing a privilege log, the Counterclaim Defendant has violated**  
18 **Rule 26(b)(5), Federal Rules of Civil Procedure.**

19 **REQUEST NO. 63.** Any and all documents evidencing “Defendants, acting in  
20 concert with each other, and with intent to commit civil conspiracy, schemed to  
21 misappropriate 3M’s Trademarks and good reputation in order to injure 3M’s  
22 business and gain and unfair advantage in the marketplace” as alleged in  
23 paragraph 115 of the Complaint.

24 **RESPONSE:** 3M objects to this request to the extent that it seeks either  
25 attorney-client privileged or work-product privileged material. Without waiving  
26 any objections, see documents included with the initial disclosures. Discovery is  
ongoing. This information is uniquely in the possession of Defendants. Additional  
material will be provided when available.

**MOTION TO COMPEL:** “[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.” Sundance Image Tech., Inc. v. Cone Editions Press, Ltd., No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

**By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.**

**REQUEST NO. 64.** Any and all documents of an unlawful or overt act by the Defendants and/or each Defendant as alleged in paragraph 116 of the Complaint.

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-client privileged or work-product privileged material. Without waiving any objections, see documents included with the initial disclosures. Discovery is ongoing. This information is uniquely in the possession of Defendants. Additional material will be provided when available.

**MOTION TO COMPEL:** “[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.” Sundance Image Tech., Inc. v. Cone Editions Press, Ltd., No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

**By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.**

**REQUEST NO. 65.** Any and all documents evidencing “Defendants conspired to engage in behavior” in violation of laws and passing off as alleged in paragraph 116 of the Complaint

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-client privileged or work-product privileged material. Without waiving any objections, see documents included with the initial disclosures. Discovery is

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2737 37TH AVE SW  
SEATTLE, WA 98126  
T: 206.660.0512

ongoing. This information is uniquely in the possession of Defendants. Additional material will be provided when available.

**MOTION TO COMPEL:** “[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.” Sundance Image Tech., Inc. v. Cone Editions Press, Ltd., No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

**By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.**

**REQUEST NO. 66.** Any and all documents evidencing the irreparable harm alleged paragraphs 117 and 118 of the Complaint.

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-client privileged or work-product privileged material. Without waiving any objections, see documents included with the initial disclosures. Discovery is ongoing. Additional material will be provided when available.

**MOTION TO COMPEL:** “[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.” Sundance Image Tech., Inc. v. Cone Editions Press, Ltd., No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

**By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.**

**REQUEST NO. 67.** Any and all documents evidencing the damages alleged in paragraph 120 of the Complaint.

**RESPONSE:** 3M objects to this request to the extent that it seeks either attorney-client privileged or work-product privileged material. Without waiving any objections, see documents included with the initial disclosures. Discovery is ongoing. Additional material will be provided when available.

**MOTION TO COMPEL:** “[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.” Sundance Image Tech., Inc. v. Cone Editions Press, Ltd., No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated Rule 26(b)(5), Federal Rules of Civil Procedure.

**REQUEST NO. 68.** Any and all documents by and/or between any of the following: Providence Medical Group, Cole Ercanbarck, Vizient, John Shinar and/or Med Line.

**RESPONSE:** 3M objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case. Specifically, Med Line is neither a party to this case nor involved in it in anyway—any production of Med Line materials would only lead to the production of irrelevant documents. 3M has already produced the documents relevant to this case with its initial disclosures. Notwithstanding the objections, 3M is willing to confer on a reasonable scope of documents. 3M will not produce its confidential documents in the absence of a protective order with a Highly Confidential/Attorneys’ eyes only provision.

**MOTION TO COMPEL:** In this Request, AIMI identifies witnesses with personal knowledge of the event in question. 3M tacitly admits the documents in this Request are discoverable by stating that “Notwithstanding the objections, 3M is willing to confer on a reasonable scope of documents.

“[I]t is not an appropriate response to a request for production of documents to state that the documents were previously produced. The responding party must provide specific identification of the documents corresponding to the specific request.” Sundance Image Tech., Inc. v. Cone Editions Press, Ltd., No. WL 8173278, at \*5 (S.D. Cal. Aug. 19, 2005).

By making a blanket assertion of attorney client privileged communications and attorney work product without producing a privilege log, the Counterclaim Defendant has violated

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2737 37TH AVE SW  
SEATTLE, WA 98126  
T: 206.660.0512

**Rule 26(b)(5), Federal Rules of Civil Procedure.**

**REQUEST NO. 69.** Any and all documents evidencing the 3M official processes or policies for the following: 3M, 3M Global, 3M Global Distributors, 3M Resellers, and/or 3M Private Sellers.

**RESPONSE:** 3M objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case. 3M also objects as some of this material is confidential and proprietary and will not be produced without a protective order. Additionally, 3M Global, 3M's distributors, Resellers, and Private Sellers are not 3M entities and are, in fact, all unrelated, non-parties. Therefore, 3M does not have possession or control over documents in their possession. Notwithstanding the objections, 3M is willing to confer on a reasonable scope of documents. 3M will not produce its confidential documents in the absence of a protective order with a Highly Confidential/Attorneys' eyes only provision.

**MOTION TO COMPEL:** 3M tacitly admits the documents in this Request are discoverable by stating that "Notwithstanding the objections, 3M is willing to confer on a reasonable scope of documents. AIME would suggest that 3M's obligation is to produce the requested documents rather than offer to enter into settlement negotiations concerning the extent of its production.

**REQUEST NO. 70.** Any and all documents evidencing transactional history by distributor, reseller, and private seller for 3M and/or 3M Global.

**RESPONSE:** 3M objects to this request as overly broad, unduly burdensome, and disproportionate to the needs of the case. 3M also objects as some of this material is confidential and proprietary and will not be produced without a protective order. Additionally, 3M Global is not a 3M entity. Therefore, 3M does not have possession or control over documents in their possession. Notwithstanding the objections, 3M is willing to confer on a reasonable scope of documents. 3M will not produce its confidential documents in the absence of a protective order with a Highly Confidential/Attorneys' eyes only provision.



**MOTION TO COMPEL:** 3M tacitly admits the documents in this Request are discoverable by stating that “Notwithstanding the objections, 3M is willing to confer on a reasonable scope of documents. AIME would suggest that 3M’s obligation is to produce the requested documents rather than offer to enter into settlement negotiations concerning the extent of its production.

This request seeking “the transactional history by distributor, reseller, and private seller” is calculated to discover the prices that 3M charges for its respirators, and is therefore tailored to seek documents within the scope of AIME’s pleadings, and is likely to lead to the discovery of admissible evidence.

**REQUEST NO. 71.** All documents evidencing any transactions for the last 24 months between Plaintiff and Vizient, Providence Medical Group, and/or Medline.

**RESPONSE:** 3M objects to this request as irrelevant, overly broad, unduly burdensome, and disproportionate to the needs of the case. Specifically, Med Line is neither a party to this case nor involved in it in anyway—any production of Med Line materials would only lead to the production of irrelevant documents. 3M also objects as some of this material is confidential and proprietary and will not be produced without a protective order. Notwithstanding the objections, 3M is willing to confer on a reasonable scope of documents. 3M will not produce its confidential documents in the absence of a protective order with a Highly Confidential/Attorneys’ eyes only provision.

**MOTION TO COMPEL:** Vizient, Providence Medical Group, and/or Medline were either customers or potential customers of AIME. Once this lawsuit was filed, AIME was shunned by these three companies. Counterclaim Plaintiffs allege, inter alia, that “This lawsuit against AIME is an extension of 3M’s publicity campaign. This lawsuit was filed for the ulterior purpose of driving out competition in the U.S. mask market, by threatening and attempting to quash non-3M insiders who are getting rich making side deals for 3M masks.” Counterclaim, para. 19. This request seeks “transactions for the last 24 months between 3M and specific customers or potential customers of AIME. Plaintiff’s transactional history by distributor, reseller, and private seller” is calculated to discover the potential sales that were diverted from AIME to 3M as a result of the lawsuit, which is relevant to the malicious prosecution claim. It is therefore tailored to seek documents

1 within the scope of AIME's pleadings, and is likely to lead to the discovery of admissible  
2 evidence.

3 **REQUEST NO. 74.** Any and all documents evidencing Plaintiff's cost of  
4 manufacturing its N95 masks per production output, including but not limited to,  
5 variable and fixed costs, material costs, and any other costs of production.

6 **RESPONSE:** 3M objects to this request as irrelevant, overly broad, unduly  
7 burdensome, and disproportionate to the needs of the case. 3M also objects as  
8 this request seeks confidential information, which 3M will not provide without  
9 a protective order. Further, this overbroad request lacks any relevance to the  
10 claims and defenses at issue, as 3M's manufacturing costs have no bearing on  
11 Defendants' fraudulent actions, 3M's interaction with Defendants, or  
12 Defendants' own manufacturing capacity.

13 **MOTION TO COMPEL:** 3M's manufacturing costs are likely to lead to the discovery of  
14 admissible evidence relating the 3M's definition of "price gouging" and "profiteering" as  
15 those terms are employed in the lawsuit against AIME.

16 **REQUEST NO. 75.** Any and all documents revealing each of Plaintiff's  
17 manufacturing facilities in existence over the past two years where its 3M  
18 brand N95 respirators have been manufactured.

19 **RESPONSE:** 3M objects to this request as irrelevant, overly broad, unduly  
20 burdensome, and disproportionate to the needs of the case. 3M also objects as  
21 this request seeks confidential information, which 3M will not provide  
22 without a protective order. Notwithstanding the objections, 3M is willing to  
23 confer on a reasonable scope of documents. 3M will not produce its confidential  
24 documents in the absence of a protective order with a Highly  
25 Confidential/Attorneys' eyes only provision.

26 **MOTION TO COMPEL:** AIME has alleged "As it turns out, 3M's representations were  
only half-truths. 3M grossly understated both its existing and future respirator production  
capacity, a maneuver calculated to protect its more profitable foreign markets for these

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2737 37TH AVE SW  
SEATTLE, WA 98126  
T: 206.660.0512

1 products. 3M deceptively told its audience it would not raise its retail prices, when in fact,  
 2 3M does not sell its respirators on the retail market and does not limit the prices at which  
 3 its authorized distributors can sell respirators. Indeed, 3M turned a blind eye to its own  
 4 distributors, executives, and other insiders who were profiting from 3M's scarcity tactic,  
 5 which in turn was propagated by 3M's understated production capacity." Complaint, para.  
 6 40.

7 Documents revealing each of 3M's manufacturing facilities in existence over the past two  
 8 years where its 3M brand N95 respirators have been manufactured are likely to lead to the  
 9 discovery of admissible evidence relating the 3M's global production capacity.

10 3M tacitly admits the relevance of this request by stating "Notwithstanding the objections,  
 11 3M is willing to confer on a reasonable scope of documents." AIME would suggest that  
 12 3M's obligation is to produce the requested documents rather than offer to enter into  
 13 settlement negotiations concerning the extent of its production.

14 **REQUEST NO. 76.** Any and all documents evidencing the number of 3M  
 15 brand N95 respirators manufactured at each facility for the last two years.

16 **RESPONSE:** 3M objects to this request as irrelevant, overly broad, unduly  
 17 burdensome, and disproportionate to the needs of the case. 3M also objects as  
 18 this request seeks confidential information, which 3M will not provide  
 19 without a protective order. Notwithstanding the objections, 3M is willing to  
 20 confer on a reasonable scope of documents. 3M will not produce its confidential  
 21 documents in the absence of a protective order with a Highly  
 22 Confidential/Attorneys' eyes only provision.

23 **MOTION TO COMPEL:** See AIME's Motion as it relates to REQUEST NO. 75 above.

24 **REQUEST NO. 77.** Any all documents listing the SKUs of all 3M brand N95  
 25 respirators for the last two years manufactured by Plaintiff.

26 **RESPONSE:** 3M objects to this request as irrelevant, overly broad, unduly  
 burdensome, and disproportionate to the needs of the case. Notwithstanding the  
 objections, 3M is willing to confer on a reasonable scope of documents. 3M will  
 not produce its confidential documents in the absence of a protective order with  
 a Highly Confidential/Attorneys' eyes only provision.

1 **MOTION TO COMPEL: See AIME's Motion as it relates to REQUEST NO. 75 above.**

2  
3 **REQUEST NO. 78.** Any and all documents evidencing the number of 3M  
4 brand N95 respirators delivered at each manufacturing facility for the last two  
5 years, including but not limited to documents which list the deliveries by SKU.  
6 **RESPONSE:** 3M objects to this request as irrelevant, overly broad, unduly  
7 burdensome, and disproportionate to the needs of the case. 3M also objects as  
8 this request seeks confidential information, which 3M will not provide  
9 without a protective order. Notwithstanding the objections, 3M is willing to  
10 confer on a reasonable scope of documents. 3M will not produce its confidential  
11 documents in the absence of a protective order with a Highly  
12 Confidential/Attorneys' eyes only provision.

13 **MOTION TO COMPEL: See AIME's Motion as it relates to REQUEST NO. 75 above.**

14 **REQUEST NO. 79.** Any and all documents evidencing the raw materials  
15 used for the manufacture of 3M brand N95 respirators for the last two years,  
16 including but not limited to any breakdowns by manufacturing facilities.  
17 **RESPONSE:** 3M objects to this request as irrelevant, overly broad, unduly  
18 burdensome, and disproportionate to the needs of the case. 3M also objects as  
19 this request seeks confidential information, which 3M will not provide  
20 without a protective order. Notwithstanding the objections, 3M is willing to  
21 confer on a reasonable scope of documents. 3M will not produce its confidential  
22 documents in the absence of a protective order with a Highly  
23 Confidential/Attorneys' eyes only provision.

24 **MOTION TO COMPEL: See AIME's Motion as it relates to REQUEST NO. 75 above.**

1 **REQUEST NO. 80.** Any and all SGS reports by Plaintiff's manufacturing  
2 facilities where 3M brand N95 respirators were manufactured for the past two  
3 years.

4 **RESPONSE:** 3M objects to this request as irrelevant, overly broad, unduly  
5 burdensome, and disproportionate to the needs of the case. 3M also objects as  
6 this request seeks confidential information, which 3M will not provide  
7 without a protective order. Notwithstanding the objections, 3M is willing to  
8 confer on a reasonable scope of documents. 3M will not produce its confidential  
9 documents in the absence of a protective order with a Highly  
10 Confidential/Attorneys' eyes only provision.

11 **MOTION TO COMPEL:** See AIME's Motion as it relates to REQUEST NO. 75 above.

12 **REQUEST NO. 81.** Any and all bills of lading for all goods delivered at each of  
13 Plaintiff's manufacturing facilities where 3M brand N95 respirators were  
14 manufactured for the past two years.

15 **RESPONSE:** 3M objects to this request as irrelevant, overly broad, unduly  
16 burdensome, and disproportionate to the needs of the case. 3M also objects as  
17 this request seeks confidential information, which 3M will not provide  
18 without a protective order. Notwithstanding the objections, 3M is willing to  
19 confer on a reasonable scope of documents. 3M will not produce its confidential  
20 documents in the absence of a protective order with a Highly  
21 Confidential/Attorneys' eyes only provision.

22 **MOTION TO COMPEL:** See AIME's Motion as it relates to REQUEST NO. 75 above.

23 **REQUEST NO. 82.** Any and documents evidencing exports from each of  
24 Plaintiff's manufacturing facilities where 3M brand N95 respirators were  
25 manufactured for the last two years, including the destination.

**RESPONSE:** 3M objects to this request as irrelevant, overly broad, unduly burdensome, and disproportionate to the needs of the case. 3M also objects as this request seeks confidential information, which 3M will not provide without a protective order. Notwithstanding the objections, 3M is willing to confer on a reasonable scope of documents. 3M will not produce its Confidential documents in the absence of a protective order with a Highly Confidential/Attorneys' eyes only provision.

**MOTION TO COMPEL:** See AIME's Motion as it relates to REQUEST NO. 75 above.

### V. CERTIFICATION

I certify that before filing this Motion, I sent opposing counsel an email on January 18, 2021 and again on June 3, 2021 seeking to have 3M respond to AIME's First Request for Production. I then scheduled and conducted a telephone conference with opposing counsel on June 12, 2021, during which the substance of the contemplated motion and many other discovery issues were discussed thoroughly, and sought potential resolution in accordance with LCR 37(a). I then sent follow up emails to opposing counsel on June 15, 2021, and again on December 15, 2021, both times seeking to have 3M's responses, all without success.

By: s/ R. Gale Porter, Jr.

R. Gale Porter, Jr., FBN 0578584  
gale@porterlawgroup.net  
Paralegal@porterlawgroup.net  
PORTER LAW GROUP LLC  
1646 W. Snow Ave. Suite 11  
Tampa, Florida 33606  
P: 813.405.3100 F: 813.603.6301  
*Pro Hac Vice*

Attorney for Defendants AIME, LLC,  
Mark Baciak, and Michael Bingham

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LAW OFFICE OF RICHARD D. ROSS  
2737 37TH AVE SW  
SEATTLE, WA 98126  
T: 206.660.0512

**CERTIFICATE OF SERVICE**

I hereby certify that on March 8, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

W. Gregory Lockwood: [wglockwood@grsm.com](mailto:wglockwood@grsm.com)  
Nancy Erfle: [nerfle@grsm.com](mailto:nerfle@grsm.com); [hcoffey@grsm.com](mailto:hcoffey@grsm.com)  
Gordon Rees Scully Mansukhani, LLP  
1300 SW Fifth Avenue, Suite 2000  
Portland, Oregon 97201

LAW OFFICE OF RICHARD D. ROSS

By s/ Richard D. Ross  
Richard D. Ross, WSBA No. 34502  
[richard.d.ross@icloud.com](mailto:richard.d.ross@icloud.com)  
Law Office of Richard D. Ross  
2737 37<sup>th</sup> Ave SW  
Seattle, WA 98126  
Telephone: 206.660.0512

By: s/ R. Gale Porter, Jr.  
R. Gale Porter, Jr., FBN 0578584  
[gale@porterlawgroup.net](mailto:gale@porterlawgroup.net)  
[Paralegal@porterlawgroup.net](mailto:Paralegal@porterlawgroup.net)  
PORTER LAW GROUP LLC  
1646 W. Snow Ave. Suite 11  
Tampa, Florida 33606  
P: 813.405.3100 F: 813.603.6301  
*Pro Hac Vice*

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LAW OFFICE OF RICHARD D. ROSS  
2737 37TH AVE SW  
SEATTLE, WA 98126  
T: 206.660.0512



Attorney for Defendants AIME, LLC,  
Mark Baciak, and Michael Bingham

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LAW OFFICE OF RICHARD D. ROSS  
2737 37TH AVE SW  
SEATTLE, WA 98126  
T: 206.660.0512